



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY


REGION 4

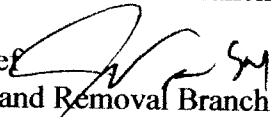
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ATLANTA, GEORGIA 30303-8960

**FEB 15 2011**

**ACTION MEMORANDUM**

**SUBJECT:** Request for a Ceiling Increase and Exemptions to the \$2 Million Statutory Limit and the 12-Month Statutory Limit  
Fairfax Street Wood Treater Site  
Jacksonville, Duvall County, Florida

**FROM:** Terry Tanner, On-Scene Coordinator  
Emergency Response and Removal Branch 

**THRU:** Shane Hitchcock, Chief   
Emergency Response and Removal Branch

**TO:** Franklin E. Hill, Director  
Superfund Division

**I. PURPOSE**

The purpose of this Action Memorandum is to request and document approval of a ceiling increase and exemptions to the \$2 million statutory limit and 12-month statutory limit imposed by Section 104(c) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9604(c), as amended, for the Fairfax Street Wood Treater Site (Site) located in Jacksonville, Duvall County, Florida. The release of hazardous substances at the Site poses a continued threat to public health and the environment that continues to meet the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) section 300.415(b)(2) criteria for removal actions.

As a result of the Site conditions, immediate removal actions conducted pursuant to Section 104 of CERCLA continue to be necessary at the Site. The total project ceiling for this time-critical removal action, if approved, will be \$2,352,672 of which an estimated \$1,947,998 will be funded through the Regional Removal Allowance.

**II. SITE CONDITIONS AND BACKGROUND**

CERCLIS ID: FLD000623041  
Site ID Number: B4B5  
Removal Category: Time-Critical Removal

## **A. Site Description**

The Fairfax Street Wood Treaters Site is located generally at 2610 Fairfax Street in Jacksonville, Florida, situated within an economically challenged residential neighborhood. The Site is the location of an inactive wood treating facility which treated wood with a solution of chromated copper arsenate (CCA). Wood treating activities at the Site reportedly began in 1980 by Wood Treaters, Inc. The Site is bounded to the north by a Norfolk Southern rail line, to the east (across Fairfax Street) by a church building and single-family homes, to the south by additional homes, and to the west by the Susie Tolbert Elementary School, and the Pullman Court residential subdivision.

### **1. Site Investigations**

Several investigations of the Site have been performed to date by the operator of the Site and by the Environmental Protection Agency (EPA). In June 2008, the operator of the Site, Wood Treaters LLC (Wood Treaters), performed a Site Assessment of the property located at 2610 Fairfax Street in Jacksonville, Florida and the adjacent property occupied by the Susie Tolbert Elementary School. Based on these findings, additional investigations were performed by Wood Treaters through August 2010. A total of seven investigations were performed from June 2008 through August 2010. The additional investigations included not only the property owned by Wood Treaters and the elementary school, but property to the north owned by the Norfolk Southern rail line property, the Pullman Court residential properties to the west, and residential homes located to the south.

The Site investigations documented the presence of CCA contamination on these properties with arsenic as the predominate constituent present at this Site. Based on the findings of these investigations, Wood Treaters hired Florida Environmental Compliance Corporation of Orlando, Florida to perform a soil removal at the Susie Tolbert Elementary School. From July 24, 2008, through August 6, 2008, approximately 407 tons of contaminated soil was removed from an area of approximately 8,000 square feet in the play yard area. The top sod was removed and soils excavated from depths of 18 inches to 6 feet below ground surface. The contaminated soil was disposed of at the Waste Management facility located at Chesser Island, Georgia.

### **2. Emergency Response Action**

On August 10, 2010, Kenton Brown of the Florida Department of Environmental Protection (FDEP) contacted both the National Response Center (NRC) and EPA to report that the facility was no longer in operation and was releasing contaminated storm water runoff to Moncrief Creek. Wood Treaters had ceased operations a few weeks prior amid Chapter 7 bankruptcy proceedings. FDEP reported that during this time, rainfall landing on the facility's contaminated drip pad had drained into the process area, filling the secondary containment system of the above ground storage tank farm to capacity. At the time of this notification, the contaminated storm water had overtopped the secondary

containment system, flowing through a drainage system to an on-site lagoon, which was also filled to capacity and had begun to spill over into the outfall of Moncrief Creek. Mr. Brown requested federal assistance in minimizing or eliminating the flow of the contaminated material from the Site.

On August 10, 2010, EPA On-Scene Coordinator (OSC) Richard Jardine mobilized to the Site to find process chemicals and wood treating wastes abandoned on-site in the above ground storage tanks. Wood treating wastes in the former operations area were left exposed to the elements. EPA obtained access to the Site from the Site owner, Fairfax Land Management, Inc. (Fairfax), Wood Treaters, and the Chapter 7 Trustee. EPA began removing water from the tank farm secondary containment area (see attached Emergency Response Action Memo). This water was then transferred to a portable tank on-site. A portion of the water within the lagoon was also transferred to a portable tank to reduce the threat of release from the lagoon. Approximately 20,000 gallons was removed from the containment and 40,000 gallons from the lagoon. A single afternoon rain event resulted in an increase of approximately 30,000 gallons of water to the lagoon and 4,500 gallons to the containment structure.

On August 13, 2010, EPA's Emergency and Rapid Response Services (ERRS) contractor, WRS, completed pressure washing the drip pad and began pressure washing the containment structure. All wash water was contained by a vacuum truck and the water transferred to a portable storage tank. WRS also removed sludge from areas around the pressure vessel and from areas within the containment structure.

EPA remained on-site capturing CCA-contaminated storm water from the process area so that the contaminated storm water would not migrate off-site into the community and beyond. Heavy seasonal thunderstorms and tropical depressions have delivered several inches of rainfall this summer and early fall. Modifications made to the storm water collection system during the Emergency Response action have since prevented storm water from entering the secondary containment area. This modification has effectively eliminated the generation of additional CCA-contaminated storm water. Additionally, one of the secured creditors at the Site has removed the 60% CCA solution from one of the above ground storage tanks, returning it to the original vendor. EPA developed and implemented an adsorption water treatment system to process the CCA-contaminated water on-site. Approximately 58,000 gallons of treated water has been successfully treated and discharged to the Jacksonville Sewer Authority. An additional 206,000 gallons remain on-site waiting to be processed through the treatment system.

On February 3, 2011, the response costs had reached the funding ceiling for the Emergency Response Action and the WRS crew demobilized from the Site.

### **3. Physical Location**

The Fairfax Wood Treater Site is located generally at 2610 Fairfax Street in Jacksonville, Duval County, Florida (latitude °30.3539904, longitude °-81.6871852), situated within an economically challenged residential neighborhood. The Site is

bounded to the north by a Norfolk Southern rail line, to the east (across Fairfax Street) by a church building and single-family homes, to the south by additional homes, and to the west by the Susie Tolbert Elementary School, and the Pullman Court residential subdivision. Moncrief Creek is located 1/8 of a mile to the north west of the Site.

#### **4. Site Characteristics**

The Site began operations in 1980 as a wood treater using chromated copper arsenate (CCA). In CCA treatment, copper is the primary fungicide, arsenic a secondary fungicide and an insecticide, and chromium a fixative, which also provides ultraviolet light resistance. The CCA preservative is recognizable by the greenish tint it imparts to timber. A pressure treatment process was utilized, wherein an aqueous solution of CCA batch water was applied using a vacuum and pressure cycle within a pressure vessel. After treatment, the wood was removed and temporarily placed on a concrete drip pad, then moved to a staging area where it was stacked to dry. Above ground storage tanks were used to contain concentrated CCA and dilute mixtures of CCA, all of which were located within a secondary containment system. All surface water run off from the contaminated drip pad and treatment area is diverted into the secondary containment system where the operator would collect the CCA-contaminated surface water for reuse in the wood treating process. Over time this practice resulted in a build up of concentrated CCA sludge within the secondary containment area.

When the Site operator abandoned the facility in July 2010, large quantities of unmanaged storm water from the contaminated dip pad and treatment area accumulated in the secondary containment system, where the water mixed with the residual CCA sludge. Once the containment system had been filled to capacity, this mixture began discharging into the Site lagoon, which was also filled to capacity, and then into Moncrief Creek.

The areas where the treated wood was stored had no containment system. The Site is fenced and security is presently being provided through the end of February 2011 by a security company subcontracted through EPA's ERRS contractor.

Site investigations performed from June 2008 through August 2010 revealed the presence of CCA throughout soils on Wood Treaters property as well as adjacent properties, including the elementary school, the Norfolk Southern rail line property to the north, and the Pullman Court residential properties to the west. The investigations concluded that surface water run off was responsible for transporting the CCA from the Wood Treaters property onto the adjacent properties. While chromium and copper are present at the Site, arsenic is the hazardous substance of greatest prevalence and concern.

#### **5. Release or threatened release into the environment of a hazardous substance, or pollutant or contaminant**

EPA has identified releases and threatened releases of hazardous substances, as defined by CERCLA Section 101 (14), at and from the Site. Since at least 1980, the

wood treating facility treated wood with a solution of copper, chromium, and arsenic—all hazardous substances listed in the Title 40 of the Code of Federal Regulations (CFR) Section 302.4. The facility's operations resulted in releases of hazardous substances to the Wood Treaters property and certain adjacent parcels, as well as the abandonment of large quantities of CCA wood treating solutions, process sludges, and contaminated storm water, which overwhelmed the Site containment systems, emptying into Moncrief Creek. The release of hazardous substances at and from the Site will continue to be a threat to public health, welfare and the environment, if not mitigated.

The arsenic concentrations in the grab samples collected on the Wood Treaters property ranged from 22 parts per million (ppm) to 7,571 ppm. The concentration of arsenic on-site exceeds EPA's Removal Action Level (RAL) for industrial exposure (180 ppm). Currently there is a risk to human health via direct contact with contaminated soil at the Site. Potential human exposure to the Site's related contamination may occur via inadvertent ingestion and/or direct contact with contaminated soil. The Site is fenced, but the owner/operator has abandoned the Site. Site security is presently being performed as part of the on-going Emergency Response action.

#### **6. National Priorities List (NPL) Status**

The Site is not on the NPL, but is presently being evaluated for listing on the NPL.

#### **7. Maps, pictures, and other graphic representations**

Maps, figures, and photographs are attached to this Action Memorandum.

### **B. Other Actions to Date**

#### **1. Previous Actions**

Other than the activities mentioned above, no other government or private actions have been taken to investigate or mitigate the threats posed by the Site.

#### **2. Current Actions**

Recent activities at the Site included the treatment of the captured contaminated facility storm water and process wastes and sludges which were stored on-site in the above ground storage tanks and in rented frac tanks. Treatment of the contaminated water began on October 26, 2010, and ceased on February 3, 2011, when the funding for the Emergency Response action had been expended and the WRS contractor demobilized from the Site. Approximately 206,000 gallons of CCA-contaminated storm water remains on-site in the above ground storage tanks and three frac tanks. A security company has been contracted to provide 24-hour guard service at the Site through the end of February.

### **C. State and Local Authorities' Role**

#### **1. State and Local Actions to Date**

The State has been working with the owner/operator since 2008 in a cooperative effort to assess the Site conditions and oversee appropriate response actions to those conditions. Following the owner/operator bankruptcy proceedings in July 2010 the State concluded that conditions at the Site warranted further action and referred the Site to EPA Region 4. FDEP personnel continue to assist EPA with the ongoing response action at this Site.

#### **2. Potential for Continued State and Local Response**

It is not anticipated that the State of Florida will directly perform any further response activities at the Site. The Emergency Response and Removal Branch (ERRB) will continue to coordinate with state and local agencies during the removal activities.

### **III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES**

#### **A. Threats to Public Health or Welfare**

While chromium and copper are present to some extent, arsenic is the predominant hazardous substance present throughout the Site and the contaminant that exceeds both federal and state action levels. Arsenic present in Site soils poses the following threats to public health or welfare as listed in Section 300.415 (b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP):

***Section 300.415 (b)(2)(i) Actual or potential exposure to nearby human populations, or the food chain from hazardous substances pollutants or contaminants;*** Investigations performed by the owner/operator as well as EPA revealed that there is significant arsenic contamination present in surface soils at concentrations as high as 7,571 ppm. Arsenic is present at concentrations above EPA's RAL for industrial (180 ppm) properties in areas throughout the property owned by Wood Treaters. The Site is fenced, but the owner/operator has abandoned the Site. Site security is presently being performed as part of the on-going Emergency Response action. Once EPA's on-going Emergency Response action funding has been depleted, the Site security will no longer remain in place. Trespassers would be at risk of coming into direct contact with contaminated surface soils and CCA-contaminated storm water present in the secondary containment area. Children attending the elementary school adjacent to the Site, as well as residents living in homes adjacent to the Site are at risk of coming into contact with the contaminants via windborne dust.

The adjacent residential properties did not have arsenic concentrations above EPA's RAL of 39 ppm for residential properties. The FDEP has established Soil

Cleanup Target Levels (SCTL) that should be considered in determining an appropriate cleanup level for the Site. The residential SCTL for arsenic is 2.1 ppm, and the industrial SCTL is 12 ppm. Some of the soil concentrations for arsenic at residential properties were above the FDEP's SCTLs. A discussion of the SCTLs and their applicability as ARARs are discussed in section VI.

***Section 300.415 (b)(2)(iv) High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface that may migrate;*** Site investigations performed from June 2008 through January 2011 revealed the presence of CCA throughout soils on Wood Treathers property as well as adjacent properties, including the elementary school, the Norfolk Southern rail line property to the north, and the Pullman Court residential properties to the west. The investigations concluded that surface water run off was responsible for transporting the CCA from the Wood Treathers property onto the adjacent properties.

Analytical results from August 2010 reveal the presence of arsenic at concentrations as high as 7,571 ppm in surface soils on the Wood Treathers LLC property which create a potential for migration to off-site locations. Approximately 206,000 gallons of CCA-contaminated storm water remain at the Site in above ground storage tanks which are deteriorating with time. The surface water diversion ditches would not stop the runoff from leaving the Site. These ditches simply divert water to the storm water retention pond which drains into Moncrief Creek.

***Section 300.415 (b)(2)(v) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released;*** Rainfall is an example of a weather condition that has recently caused hazardous substances to migrate from the Site. Previous investigation have demonstrated that CCA-contaminated storm water has spread from the Wood Treater property to adjacent properties during rain events. The on-going Emergency Response action addressed a portion of the existing CCA-contaminated rain water. If the remaining CCA-contaminated storm water and the CCA-contaminated soils and sediments are not addressed, future rainfall will continue to transport contamination from the Wood Treater property to adjacent properties.

***Section 300.415 (b)(2)(vii) The availability of other appropriate federal or state response mechanisms to respond to the release;*** FDEP referred this Site to EPA in August 2010 and has indicated that the State lacks available funds to implement a cleanup at the Site in a timely manner. If EPA Region 4 does not respond to this release, no other federal agency, state or local government has the capacity to respond in a time-critical manner.

## **B. Threats to the Environment**

Actual or threatened releases of hazardous substances from this Site, if not addressed by implementing the response action, could pose a threat to the environmental receptors associated with Moncrief Creek. The hazardous substances present at this Site

(copper, arsenic, and chromium) present a risk to environmental receptors associated with this creek.

#### **IV. ENDANGERMENT DETERMINATION**

Actual or threatened releases of hazardous substances from this Site, if not addressed by implementing the response action selected in this Action Memorandum, may present an imminent and substantial endangerment to public health, welfare or the environment.

#### **V. EXEMPTION FROM STATUTORY LIMITS**

This removal action is requesting an exemption to the 12-month and \$2 million statutory limits imposed by Section 104(c) of CERCLA, as amended CERCLA section 104(c)(1)(c) allows an emergency exemption if:

**1. There is an immediate risk to public health or welfare or the environment:**

The uncontrolled Site conditions allow for trespassers come into direct contact with waste and risk exposure to contaminated soil, sediment, and sludge. In addition, the surface water run off has contaminated adjacent residential properties and the adjacent school property with arsenic, copper, and chromium.

**2. Continued response actions are immediately required to prevent, limit, or mitigate an emergency:**

Storm water continues to come into contact with contaminated soil which is present across most of the Wood Treaters LLC property. In addition, the storm water is also coming into contact with the CCA-contaminated sludge within the secondary containment system. The Emergency Response action addressed a portion of the contaminated storm water, but this was only a temporary solution. In the absence of any future response action the secondary containment system would overflow. Therefore, a removal response action addressing the source areas is immediately required. Until both source areas are mitigated, they will continue to contaminate rain water which in turn will leave the Site and contaminate adjacent properties.

**3. Assistance will not otherwise be provided on a timely basis:**

The conditions within the secondary containment system and the surface water run off system are deteriorating with time. Neither the State nor local government has the resources to perform the actions to mitigate the threats posed by the source areas on Site.



## **VI. PROPOSED ACTIONS AND ESTIMATED COSTS**

During the initial Emergency Response action, contaminated water from the secondary containment area in addition to CCA-contaminated storm water was transferred to portable storage tanks for treatment. Additional funds will be used to complete the following actions.

### **A. Proposed Actions**

#### **1. Proposed action description**

EPA's proposed actions include the following:

- a. Excavate and disposal of CCA sludge within the secondary containment area, storage tanks and associated piping;
- b. Removal of the above ground storage tanks and associated piping;
- c. Treatment of remaining CCA-contaminated waste water followed by disposal to the Jacksonville sewer system;
- d. Excavate surface soils/sediment at the Wood Treaters LLC property which exceed the Removal Action Level (180 ppm arsenic) for industrial property to the maximum extent practicable;
- e. Excavate surface soils/sediment at the adjacent elementary school which exceed 39 ppm arsenic to the maximum extent practicable;
- f. Disposal of spent titanium dioxide, filters, and any additional waste associated with the Emergency Response action;
- g. Evaluate treatment and disposal options for the contaminated soils and sludge;
- h. Transport and dispose of all contaminated soils and materials;
- i. Restore areas which are disturbed by the removal action to their pre-removal state to the maximum extent practicable.

#### **2. Contribution to remedial performance**

The proposed removal action is warranted to address the threats discussed in Section III, which meet the NCP Section 300.415 (b) (2) removal criteria. The removal action contemplated in this Action Memorandum would be consistent with any remedial action.

### **3. Engineering Evaluation/Cost Analysis (EE/CA)**

This proposed action is time-critical and does not require an EE/CA.

### **4. Applicable or Relevant and Appropriate Requirements (ARARs)**

On-Site removal actions conducted under CERCLA are required to attain ARARs to the extent practicable, considering the exigencies of the situation. Off-site removal activities need only comply with all applicable federal and state laws, unless there is an emergency. This cleanup is being conducted as a time-critical removal action.

A request for State ARARs was sent to the State of Florida on October 27, 2010. The State of Florida responded on October 27, 2010, and identified residential Soil Cleanup Target Levels (SCTLs) for arsenic, copper, and chromium as 2.1 ppm, 150 ppm, and 210 ppm, respectively that should be considered in determining an appropriate cleanup level for the Site. While SCTLs would be considered as ARARs, using these values as cleanup levels would be outside the intended scope of this removal action. The scope of this removal action is to address the higher concentrations of contaminants posing the greater threat to human health and the environment and is intended to be an interim response measure.

The adjacent residential properties do not have arsenic concentrations above EPA's RAL of 39 ppm for residential properties. Using the SCTL for residential properties would expand the removal action to include the residential properties to the west and south in addition to a portion of soils at the elementary school. This would be outside of the intended scope of this proposed removal action.

The On-Scene Coordinator (OSC) will continue to coordinate with state officials to identify state ARARs and in accordance with the NCP, determine which ones are to be considered. All waste transferred off-site will comply with the CERCLA Off-Site Rule (40 CFR 300.440).

### **5. Project schedule**

Removal activities are anticipated to transition from the on-going Emergency Response action to the removal action within one week of approval of this Action Memorandum. It is anticipated that once activities begin, this removal action will take approximately nine (9) months to complete.

**B. Estimated Costs**

<i>Extramural Costs</i>	<i>Current Ceiling</i>	<i>Proposed Increase</i>	<i>Proposed Ceiling</i>
<b><i>Regional Allowance Costs: ERRS</i></b>	<b><i>\$595,000</i></b>	<b><i>\$1,352,998</i></b>	<b><i>\$1,947,998</i></b>
<b><i>Non-Regional Allowance Costs: START</i></b>	<b><i>\$40,000</i></b>	<b><i>\$78,396</i></b>	<b><i>\$118,396</i></b>
<b><i>Subtotal, Extramural Costs</i></b>	<b><i>\$635,000</i></b>	<b><i>\$1,431,394</i></b>	<b><i>\$2,066,394</i></b>
<b><i>Extramural Cost Contingency (20%)</i></b>	<b><i>\$0</i></b>	<b><i>\$286,278</i></b>	
<b><i>TOTAL REMOVAL ACTION CEILING</i></b>	<b><i>\$635,000</i></b>	<b><i>\$1,717,672</i></b>	<b><i>\$2,352,672</i></b>

**VII. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN**

If this response action is significantly delayed or not taken, ongoing releases and threatened releases of hazardous substances into the environment will continue, posing an imminent and substantial endangerment to public health, welfare or the environment.

**VIII. OUTSTANDING POLICY ISSUES**

No outstanding policy issues have been determined at this time.

**IX. ENFORCEMENT**

Enforcement activities have been initiated and are ongoing. It is expected that this Site will be conducted as a fund-lead removal action. See Attachment, "Enforcement Confidential Addendum," for more detailed information.

The total EPA costs for this removal action based on full-cost accounting practices that will be eligible for cost recovery are estimated to be \$3,530,268 using the following formula: (Total Extramural Costs + Total Intramural Costs) + (45.26% x (Total Extramural Costs + Total Intramural Costs)) or (2,352,672 + 77,638) + (45.26 % x (2,353,672 + 77,638) = \$3,530,268<sup>1</sup>.

<sup>1</sup>Direct costs include direct extramural costs and direct intramural costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific direct costs, consistent with the full cost accounting methodology effective October 2, 2000. These estimates do not include pre-judgment interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual total costs from this estimate will affect the United States' right to cost recovery.

**X. RECOMMENDATION**

This decision document represents the selected removal action for the Fairfax Street Wood Treater Site located in Jacksonville, Duvall County, Florida, developed in accordance with CERCLA as amended, and not inconsistent with the National Contingency Plan (NCP). The document is based on the administrative record for the Site.

Conditions at the Site continue to meet the NCP Section 300.415 (b)(2) criteria for a time-critical removal action and warrant your approval of a ceiling increase and emergency exemption from the \$2 million statutory limitation, and exemption to the 12-month statutory limitation. This time-critical removal action is anticipated to be fund-lead with a total project ceiling of \$2,352,672 of which \$1,947,998 will be funded by the Regional Removal Allowance.

APPROVED: Carol J. Hill DATE: 2/15/11  
Franklin E. Hill, Director  
Superfund Division

DISAPPROVED: \_\_\_\_\_ DATE: \_\_\_\_\_  
Franklin E. Hill, Director  
Superfund Division

Attachments

ATTACHMENT 1  
ENFORCEMENT CONFIDENTIAL ADDENDUM

## **ENFORCEMENT ADDENDUM**

### **Fairfax Street Wood Treater Site**

#### **A. Site History**

The Fairfax Street Wood Treater Site (the Site) is located generally at 2610 Fairfax Street in Jacksonville, Florida, situated within an economically challenged residential neighborhood, adjacent to a local elementary school. The Site is the location of an inactive wood treating facility which treated wood with a solution of copper, chromium, and arsenic (CCA). In late July 2010, the facility ceased operations amid Chapter 7 bankruptcy proceedings. EPA was requested to take an emergency response action at the Site on August 10, 2010 by the Florida Department of Environmental Protection (FDEP). EPA mobilized to the Site to find process chemicals and wood treating wastes abandoned on-site in seven above ground storage tanks. Wood treating wastes in the former wood treating area were left exposed to the elements. Consequently, contaminated storm water that had been formerly managed and utilized by the facility had accumulated in the process area, overwhelming the on-site containment system. The contaminated storm water flowed through a drainage system to an on-site lagoon, which EPA found filled to capacity, and beginning to brim over to the outfall of a nearby creek. Sampling results taken of the contents of the above ground storage tanks, secondary containment system, lagoon, and outfall have confirmed the presence of high levels CERCLA hazardous substances. Given the emergency nature of this removal action, and the failure of the identified PRPs to perform the work, the removal action has proceeded fund-lead.

#### **B. PRP Search**

PRP search activities are ongoing and additional information will be gathered as enforcement activities proceed. The following is information that EPA has collected to date:

- 1) The current owner of the Site is Fairfax Land Management, Inc. (Fairfax). A title search has been performed to verify current ownership of the Site property and a copy of the deed is included in the Site file. The attorney for Fairfax has acknowledged that Fairfax is the owner of the Site.
- 2) The operator of the Site is Wood Treaters, LLC (Wood Treaters). Wood Treaters operated a CCA wood treating facility at the Site from the early 1980s until the company ceased activities at the Site in July 2010 amid bankruptcy proceedings.
- 3) Wood Treaters and Fairfax are both owned indirectly by Norman Woerner, who resides in Elberta, Alabama. Mr. Woerner has filed for federal bankruptcy protection in the State of Alabama.

C. Notification of PRPs of Potential Liability and Required Removal Action and Section 107(l) Federal Lien

- 1) On August 10, 2010, Wood Treathers and Fairfax granted EPA access to perform an emergency removal action at the Site property, citing insufficient assets and financial liquidity to perform the necessary response activities.
- 2) EPA sent a General Notice Letter and Information Request to Fairfax on August 18, 2010. The letter requested financial information documenting Fairfax's inability to pay for response activities at the Site. On September 9, 2010, Fairfax submitted financial documentation indicating that the Site property is the company's only asset.
- 3) EPA has filed a CERCLA §107(l) Lien on the Site property. The property has a tax assessed value of approximately \$500,000. Given the threat that the property could be transferred out of the corporation or encumbered by a competing creditor, EPA filed the lien prior to providing Fairfax notice.

D. Additional Enforcement Activities

- 1) EPA will file a proof of claim in the Wood Treathers Chapter 7 Bankruptcy, seeking all appropriate relief to recover its response costs at the Site.
- 2) An expanded title search will be performed to identify any potential former owners of the property at the time Wood Treating operations were conducted at the Site.
- 3) Additional CERCLA 104(e) Information Requests will be sent to Fairfax, Wood Treathers, and Norman Woerner, to further analyze each party's potential liability at the Site and to identify other potential PRPs, including any former owners/operators.
- 4) Follow-up interviews will be conducted as necessary.
- 5) EPA will obtain Site access agreements in order to conduct a removal site evaluation for the residential properties and the local elementary school adjacent to the Site.